

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv268**

CLARK TRANSPORTATION, INC.,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
ST. PAUL/TRAVELERS; and/or)	
THE TRAVELERS INDEMNITY)	
COMPANY; and/or TRAVELERS)	
PROPERTY CASUALTY COMPANY,)	
)	
Defendants.)	
)	

THIS MATTER is before the court on defendants' Motion to Dismiss (#5). While the court has read all the materials submitted and the motion would otherwise be ripe for decision, the court has conducted its own research on the legal issues presented and believes that the parties may have overlooked what may be a controlling decision, Country Club of Johnston County, Inc. v. United States Fidelity & Guaranty Company, 150 N.C.App. 231 (2002). The court would respectfully request that the parties review such decision and file supplemental briefs (of not more than five pages) no later than the close of business August 29, 2008.

In an attempt to conserve judicial resources, the court would further request that counsel for the parties meet (by phone) and consider to what extent the motion to dismiss would remain viable.

ORDER

IT IS, THEREFORE, ORDERED that the parties file supplemental briefs addressing the impact of Country Club of Johnston County, Inc. v. United States Fidelity & Guaranty Company, 150 N.C.App. 231 (2002) on the issues herein raised not later than the close of business on August 29, 2008.

Signed: August 24, 2008

A handwritten signature in cursive script, reading "Dennis L. Howell", is written over a horizontal line.

Dennis L. Howell
United States Magistrate Judge

